Mr. President, so it is my understanding that after the defense authorization bill is considered tomorrow, we, in the early afternoon, will move to the Internet Tax Freedom Act. There will be a number of relevant amendments. I believe they can be worked out, including the Bumpers amendment. And I believe that we can move forward and resolve this very important bill very rapidly.

I thank my friends on both sides of the aisle. I understand there are strongly held views. I believe those views will be given the consideration they deserve during the debate on this very important piece of legislation.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

FINANCIAL SERVICES ACT OF 1998

Mr. GRAMM. Mr. President, I came over this evening to speak briefly about H.R. 10 and where we are in our efforts to bring that important bill to the floor of the Senate. I want to explain to our colleagues the concerns I have—those concerns are shared by Senator SHELBY and by others—and explain the compromise that we have proposed in the hopes that those who are for this important bill will prevail upon those who are holding back on reaching a compromise on a key issue in the bill, and who by doing so are jeopardizing enactment of this important legislation.

Let me try, as briefly as I can, to lay out where we are in terms of the parliamentary situation, what the issue is that is contested in this parliamentary maneuvering, why that issue is so important to me, and what we can do, in my opinion, to resolve it.

First of all, thanks to the great leadership of Senator D'AMATO in the Banking Committee, we have put together a comprehensive financial modernization bill. While there are still parts, in my opinion, that need to be changed, it is a good bill. There are many provisions of the bill that I support. I congratulate Senator D'AMATO. I have to say that getting this bill through the Banking Committee with as little time as is left in the legislative session and bringing together most of the disparate interests that are ultimately represented, benefited or hurt, in a bill like this is one of the great legislative achievements that I have seen. I congratulate Senator D'AMATO for his effort.

Unfortunately, I cannot and do not support the bill in its current form. While there are many provisions of the bill that I do support, and while I would like to see the bill become law, and while if this problem could be dealt with I could step aside and allow the bill to come to the floor of the Senate, with this problem now pending, I am opposed to the bill.

Now, what is the problem? The problem has to do with a provision that sounds innocent enough. In fact, perhaps it sounds good to the ears of some. That is the so-called provision for community reinvestment. These are provisions of law that were adopted without a whole lot of debate in the late 1970s. The objective of these provisions of law was to force banks to lend money in the communities in which they were operating. The assertion was made that there were a lot of banks that were simply taking deposits and using them in other areas of the country and that, therefore, there ought to be a provision of law to require banks to meet the lending needs of their local communities.

Now, the purpose of the Community Reinvestment Act, or CRA, was to establish a procedure for an evaluation of whether or not banks were making loans in the communities where they were chartered or whether banks had simply become deposit takers and were taking those deposits and making loans somewhere else or buying government bonds or whatever other activities they might be involved in.

I personally don't think much of having the government require banks to use their capital in a particular way pleasing to the government or some government functionary. It sort of strikes me as crony capitalism. It is an unjustified intrusion into banking, in my opinion.

However, that is not what I have been objecting to in connection with this bill, nor is this government-directed capital allocation the only problem with CRA. The aspect of CRA in practice that I wish to bring to the attention of my colleagues is that CRA has become a vehicle for fraud and extortion. In fact, as strong as it may sound, the Federal banking regulators, through their delay of approval of applications, actually strengthen the hands of those who would use this law, the CRA law, in ways that it was never proposed to be used.

Let me give an example of how this works and how it is abused. Banks periodically have to be evaluated for meeting the CRA requirements. This is an evaluation done by the Federal banking regulators, at the conclusion of which they give a bank a rating. Whenever the bank wants to engage in some activity that requires approval of the Federal Reserve Board, or of the Comptroller of the Currency—like opening a new branch, merging with another bank—they have to make an application. Any person or group of persons can file a protest to that action in the name of CRA. They can do it even though the bank may have an excellent rating in its last evaluation of its community reinvestment activities.

For example, when Senator SARBANES, who is a strong proponent of this provision of law, talked about the law, he pointed out that perhaps the bank that has done the ''best job'' of meeting community reinvestment requirements was Bank of America, that they have gotten sterling ratings for lending money in the communities they serve. But when Bank of America announced a merger with NationsBank, even though Bank of America had the highest ratings of any bank in America in lending in the communities that it served, professional protesters came in and opposed the merger and demanded concessions from the bank. In fact, one of the spokesman for the protesters, in making demands on the bank that has the best CRA record of any bank in America said:

> We will close down their branches and ensure they fail in California. This is going to be a street fight and we are prepared to engage in it.

So here is a bank, Bank of America, that has the best CRA rating of any bank in America, and yet when they apply to merge we have professional protesters come in and protest and threaten to delay their merger and ultimately strike concessions from this bank.

Now, what kind of concessions are being granted? The purpose of CRA was to have lending by banks in the communities they serve. But what CRA has turned into is a vehicle for extortion, whereby banks are accused of not meeting the CRA requirements, whether they have an excellent CRA record or not, but the protest are withdrawn in exchange for agreeing with protestors to meet a series of demands, and often these agreements include cash payments, thinly disguised as donations. Banks are being required to make cash payments to the professional protester groups. They have, in the past, under duress in my opinion, agreed to donate a percentage of their profits to the very institutions that have filed protests against their actions with the Federal regulator. They have been forced, in my opinion, under duress, into agreeing to quotas and set-asides in hiring, in purchases, in promotions.

So what has happened all over America is that under a provision of law that was supposed to encourage banks to lend in the communities that they serve, we now have banks being extorted and being forced to make cash payments which are little more than bribes, being forced to set up quotas and set-asides, being forced to give concessions to people who are selling goods and services, being forced to agree to hire and promote based on things other than merit. Needless to say, there is a growing concern about this in America. That concern is reflected in the Senate where we rejected a proposal to extend this CRA requirement to credit unions. We also had strong support to exempt small banks from the CRA requirement.

Now we have before the Senate a bill that would try to promote a more competitive financial structure in America, a goal I very much support and have advocated for years. So let me make it clear, I am for legislation. But unfortunately, the bill has four different provisions that dramatically expand CRA powers, and in essence, give

the Federal Government, for the first time, the ability to impose penalties on banks, and even to impose penalties on nonbanking subsidiaries and affiliates, as well as create new hoops and new hurdles that banks would have to jump through to get certification as financial services holding companies or to engage in certain activities in subsidiaries.

What this would do is literally set up the vehicle for billions of dollars to be extorted from financial institutions in America by people who are professional protesters. You can hire groups to go to your hometown and stage a professional protest under the name of CRA, with the objective of extorting banks and forcing them to contribute, forcing them to make cash payments, and forcing them to do things that are an embarrassment in an economy that has always been the freest, most honest and most transparent economy in the world.

Now, when we set out to write this new major piece of legislation, particularly since it came over to us from the House of Representatives very late in the session, it appeared, for a time, that we reached an agreement that in this legislation we would leave the CRA battle alone, that this bill would not be used as a vehicle either to expand or reform CRA. That is to say that people like Senator SHELBY and myself would not use the bill to try to repeal CRA or reform it, something we very much favor; but we asked those on the other side not to use this bill to try to expand CRA. That effort apparently, broke down, and we have in the bill now four major expansions of CRA. Senator SHELBY and I have said that we are going to oppose this bill as long as these provisions are in the bill, as long as the bill is not neutral with regard to CRA.

Now, I want to make it clear that we are willing to work out an agreement. I want to go on record here today as to what we are willing to do. I see that my distinguished colleague, the senior Senator from Alabama, is here. Let me speak for both of us for a moment, and then I will let him speak for himself. We are willing to do either one of two things that could expedite the consideration of this bill. No. 1, we are willing to reach an agreement where the bill would be silent on community reinvestment. We would not seek to repeal it, we would not seek to reform it or restrict it; we would leave this evil where it lies. But we would require that it not be expanded.

When I made this proposal in the Banking Committee, it reminded me of Lincoln's position on slavery in the 1860 Presidential campaign. His position was that, as much as he abhorred the institution of slavery, where this evil existed, we would leave it alone, but we would not allow it to be expanded.

Now, with regard to CRA, that is a proposal that we have made in the past. I wanted to go on record making that proposal today, as much as I am opposed to CRA and believe that it is powerfully abused. If someone is representing the interests of banks or security companies, or insurance companies, and they are for this bill, all they have to do to get this bill before the Senate and in a position where it can become law is induce the people who want to expand CRA simply to agree with us to drop the CRA provisions from the bill. Proponents of CRA won't try to expand CRA, and we won't try to use this bill a vehicle to overturn those provisions that already exist in law.

A second, alternative proposal that we have made in writing, both to the minority members on the committee and to the chairman, is a proposal that says the following: the bill would expand CRA to include being considered at the formation of the new financial institutions that will exist under this bill. In other words, just as with the formation of a bank holding company, CRA performance can be evaluated in connection with the creation of a financial services holding company. But if we are going to expand CRA in that manner, there are two reforms to CRA that we want, and I submit that neither of these reforms is unreasonable.

The first reform we want is an anti-extortion provision, which says that CRA is about lending in the community you serve. Under this reform, we would have a strict prohibition against kickbacks, cash payments, quotas, and set-asides, in connection with purchases, hiring, and promotion.

The idea that professional protesters, as part of withdrawing their protest and letting banks proceed with their business, would then be hired by the bank in an advisory capacity to advise them on various issues conjures up in my mind the ''protection'' racket of an earlier era, where the little merchant had the gangster come into his place of business and say, ''You know, somebody could come in here and do you some real harm, and I am willing to protect you.''

Now, some people have said—being critical of Senator SHELBY and myself—well, the banks aren't complaining. Well, the plain truth is that many of the merchants who were being extorted by the gangsters were afraid to complain. But it was wrong and we did something about it. You can call up the President of any bank in America, or any head of any Government regulatory agency and, if you have their confidence, ask them off the record, ''Is CRA, as it now works, extortion?'' They are going to tell you, in all probability, that the answer is yes.

So what we want is a simple anti-extortion provision that says that CRA performance can be evaluated in connection with the formation of financial services holding companies under the bill, but these institutions can't pay under-the-table bribes or kickbacks, or they can't, as part of the settlement, enter into agreements that have nothing to do with the purpose of CRA and have everything to do with extortion.

The second change we want is eminently reasonable, as well. It is that if a bank is in compliance with CRA, if they have been examined for CRA and they have been given a favorable CRA rating, then they should be deemed to be in compliance with CRA on anything they want to do that requires CRA compliance until their next examination. The idea that a bank today can get an excellent CRA rating, and then they apply for a merger and CRA protesters come in and shake them down again is unconscionable to me, and it is unreasonable. I can't, for the life of me, see how anybody could be against an anti-extortion provision, and I can't see how anybody could be opposed to a provision that says if you have a passing rating on CRA when you apply for a merger or an acquisition, you are deemed to be in compliance until you are reviewed again and get another rating.

Senator SHELBY and I have offered to do one of two things—either drop all the CRA requirements and go on with this bill, or expand CRA as we have described, but together with a simple anti-extortion provision and a simple provision that says if you are in compliance, you are in compliance.

Now, in the absence of an agreement on these issues, Senator SHELBY, I, and others intend to resist. We are simply a small number of Members, and I understand that there are many powerful interests around America who have interest in this bill. I say that Senator SHELBY, I, and others have a principle in this bill. Our principle is that we are against extortion, and we are not going to be parties to expanding it. We may not have the votes today to get rid of it. We may not have the votes to purge this evil from the American financial system. But I think under the rules of the Senate we do have the power—I hope we do—to prevent it from being expanded.

I just want to say to those who have an interest in this bill, if you want this bill passed, urge those who are on the other side of this issue to look at our reasonable proposal. The rules of the Senate were established to protect the rights of the minority. They were established so that if a few Members felt strongly about something and they were willing to stand up for their principles and beliefs, it was hard to run over them.

It is like Washington said when Jefferson came back from France, where he had been Foreign Minister to France while the Constitution had been written. Jefferson asked Washington what the Senate was for. His argument was, if you have a House of Representatives and that is the voice of the people, what do you need a Senate for? Washington, who, like Jefferson, was a southerner, was accustomed, when he was drinking tea, to sometimes pouring it into the saucer and letting it cool for a moment and then pouring it back into the cup and drinking it. So he said to Jefferson that the House—

which has passed this financial services bill, even if only by one vote—will be like this cup and it will catch the heat and the fire of the moment; but the Senate will be the saucer in which we will allow the passions of the moment to cool. That is what role Senator SHELBY and I intend to fulfill as we exercise our rights. It may be that we can be run over and this bill can be passed; maybe not. I believe that those who want this bill would be well advised to urge Senator SARBANES and Senator MOSELEY-BRAUN, who are so determined to expand CRA—I think it would be advisable to ask them whether that is worth killing this bill over. Can't you just take a time-out on CRA and leave it out of the bill? Or, if you can't do that, why not agree to a compromise whereby those who oppose CRA are willing to let you expand it, but you have to give them an antifraud provision, and you have to give them reasonable enforcement, so that if you are complying with the law, you are considered to be complying with the law?

I hope people who are for this bill with their great economic interest will call on those who are on the verge of killing it in the name of CRA to be reasonable and let us move ahead.

I say today that unless there be any confusion from this point on, as one single Member of the Senate, I intend to do everything in my power to impede this bill unless these problems are resolved. I intend to do everything in my power to use all the rules of the Senate, no matter how long it takes, no matter how difficult it may be. It may be that Senator SHELBY and I, and others, can be run over, but it may be that the rules of the Senate are sufficiently strong that with our determined resistance this bill will die unless some accommodation is given on this issue.

I urge those on the other side of this issue—I am not talking about the other side of this body. I am talking about the people who have invested millions, billions, trillions in banks, insurance companies, securities companies who know in their heart that we are right about community reinvestment—I urge them to call on those who are trying to use this bill as a vehicle to expand community reinvestment not to kill this bill over this issue.

I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I want to first associate myself entirely with the remarks of the Senator from Texas. He was speaking very articulately for himself. But he was also speaking for me and a lot of other people, I believe, here in the Senate when he was talking about the problems with H.R. 10. There are a lot of good things in H.R. 10. But one of the most reprehensible things, I believe, Mr. President, is the expansion of the Community Reinvestment Act. Senator GRAMM has gone to great lengths to explain that tonight.

But before any of my colleagues would think about voting for the bill, if it comes up, H.R. 10, I think they ought to ask themselves and ask their local bankers, small bankers, the small directors and the officers if they in America support these measures that I think are reprehensible, such as increased administrative enforcement authority of the regulators to fine directors and officers of banks up to $1 million a day for CRA noncompliance. That is not the law today.

Two, that would make activities like insurance sales, or mutual fund sales, subject to CRA compliance on all depository institution affiliates on an ongoing basis. That is not the law today; and regulatory authority to shut down any affiliate within the holding company if just one subsidiary depository institution falls out of CRA compliance.

Just think about this. These are sweeping, sweeping changes in the law as we know it today.

Senator GRAMM talked at length about passing this banking reform bill—and I think it has a lot of reform in it—and keeping CRA neutral; not bother or try to repeal the CRA law as it exists today, although I personally would like to; leave it alone for another day, but not to try to expand it, either.

Those are some of my concerns.

Senator GRAMM and I have offered and we are hoping to negotiate with the proponents of this legislation for a resolution to the problems dealing with CRA issues. I will go over them one more time.

Mr. President, it would apply to the formation of financial services holding companies the same CRA structure that applies to the formation of bank holding companies today. I don't see anything wrong with that. It would be uniform, and it makes a lot of sense.

Second, Mr. President, any financial institution that has been found to be in compliance with CRA in its most recent exam shall be deemed to be in compliance with CRA for all purposes and for any action until its next regularly scheduled CRA exam.

And, thirdly—I think this is very important—to put forth some language in there dealing with antifraud, antibribery provisions, and to say basically that it shall be illegal for any financial institution in connection with the CRA review evaluation or consideration to give anyone not employed by the bank any grant or subsidy in cash, or in kind, or to establish any quota, or set aside for employment, management, sales, purchases, or other business activities other than activities voluntarily undertaken by the financial institution to meet the credit needs of the local communities in which the financial institution is chartered.

This makes a lot of sense to me. I think it makes sense that people would focus in on this as we debate this bill.

But I just want to again say that we should go ahead if we could knock out and make CRA neutral in this; go ahead and work on the merits of H.R. 10, which are many, and try to do something. If we can't, Senator GRAMM—and there will be others—and I are going to do everything we can to protect our rights here in the Senate.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, September 29, 1998, the federal debt stood at $5,523,785,546,399.80 (Five trillion, five hundred twenty-three billion, seven hundred eighty-five million, five hundred forty-six thousand, three hundred ninety-nine dollars and eighty cents).

One year ago, September 29, 1997, the federal debt stood at $5,388,316,000,000 (Five trillion, three hundred eighty-eight billion, three hundred sixteen million).

Five years ago, September 29, 1993, the federal debt stood at $4,387,836,000,000 (Four trillion, three hundred eighty-seven billion, eight hundred thirty-six million).

Ten years ago, September 29, 1988, the federal debt stood at $2,587,821,000,000 (Two trillion, five hundred eighty-seven billion, eight hundred twenty-one million).

Fifteen years ago, September 29, 1983, the federal debt stood at $1,354,190,000,000 (One trillion, three hundred fifty-four billion, one hundred ninety million) which reflects a debt increase of more than $4 trillion—$4,169,595,546,399.80 (Four trillion, one hundred sixty-nine billion, five hundred ninety-five million, five hundred forty-six thousand, three hundred ninety-nine dollars and eighty cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7237. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update'' (Notice 98–48) received on September 28, 1998; to the Committee on Finance.